

SECOND REGULAR SESSION

[PERFECTED]

HOUSE COMMITTEE SUBSTITUTE FOR

HOUSE BILL NO. 1523

97TH GENERAL ASSEMBLY

5549H.02P

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal section 402.134, RSMo, and to enact in lieu thereof one new section relating to endowment funds, with an emergency clause.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Section 402.134, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 402.134, to read as follows:

402.134. 1. Subject to the intent of the donor expressed in the gift instrument, an institution may appropriate for expenditure or accumulate so much of an endowment fund as the institution determines is prudent for the uses, benefits, purposes, and duration for which the endowment fund is established. Unless otherwise stated in the gift instrument, the assets in an endowment fund are donor-restricted assets until appropriated for expenditure by the institution. In making a determination to appropriate or accumulate, the institution shall act in good faith with the care that an ordinary prudent person in a like position would exercise under similar circumstances and shall consider, if relevant, the following factors:

- (1) The duration and preservation of the endowment fund;
- (2) The purposes of the institution and the endowment fund;
- (3) General economic conditions;
- (4) The possible effect of inflation or deflation;
- (5) The expected total return from income and the appreciation of investments;
- (6) Other resources of the institution; and
- (7) The investment policy of the institution.

2. To limit the authority to appropriate for expenditure or accumulate under subsection 1 of this section, a gift instrument shall specifically state the limitation.

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

18 3. Terms in a gift instrument designating a gift as an endowment, or a direction or
19 authorization in the gift instrument to use only "income", "interest", "dividends", or "rents, issues
20 or profits", or "to preserve the principal intact", or words of [that] **similar** import [that]:

21 (1) Create an endowment fund of permanent duration unless other language in the gift
22 instrument limits the duration or purpose of the fund; and

23 (2) Do not otherwise limit the authority to appropriate for expenditure or accumulate
24 under subsection 1 of this section.

 Section B. Because immediate action is necessary to preserve the charitable purpose of
2 certain endowment funds, the repeal and reenactment of section 402.134 of section A of this act
3 is deemed necessary for the immediate preservation of the public health, welfare, peace, and
4 safety, and is hereby declared to be an emergency act within the meaning of the constitution, and
5 the repeal and reenactment of section 402.134 of section A of this act shall be in full force and
6 effect upon its passage and approval.

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